

HOUSE BILL No. 1802

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-32.

Synopsis: Martinsville food and beverage tax. Permits Martinsville to impose a 1% food and beverage tax for city hall improvements, police and fire station construction, sanitary sewer and wastewater facility improvements, and storm sewer drainage improvements.

Effective: July 1, 1999.

Foley

January 26, 1999, read first time and referred to Committee on Ways and Means.



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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1802

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-9-32 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]:

4 **Chapter 32. Martinsville Food and Beverage Tax**

5 **Sec. 1. This chapter applies to a city having a population of**
6 **more than eleven thousand six hundred seventy (11,670) but less**
7 **than twelve thousand (12,000).**

8 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
9 **chapter.**

10 **Sec. 3. (a) The fiscal body of the city may adopt an ordinance to**
11 **impose an excise tax, known as the city food and beverage tax, on**
12 **transactions described in section 4 of this chapter.**

13 **(b) If a fiscal body adopts an ordinance under subsection (a), the**
14 **fiscal body shall immediately send a certified copy of the ordinance**
15 **to the department of state revenue.**

16 **(c) If a fiscal body adopts an ordinance under subsection (a), the**
17 **city food and beverage tax applies to transactions that occur after**

1999

IN 1802—LS 8164/DI 58+



the last day of the month that succeeds the month in which the ordinance was adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the city in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant that ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The city food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the city fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the city fiscal officer shall establish a food and beverage tax receipts fund.

(b) The city fiscal officer shall deposit in this fund all amounts



received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. (a) Money in the fund established under section 8 of this chapter shall be used by the city for only the following:

(1) Renovating the city hall.

(2) Constructing new police or fire stations, or both.

(3) Improving the city's sanitary sewers or wastewater treatment facilities, or both.

(4) Improving the city's storm water drainage systems.

Money in the fund may not be used for the operating costs of a project. In addition, the city may not initiate a project under this chapter after December 31, 2004.

(b) The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city or a special taxing district in the city to provide the projects described in subsection (a).

(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

Sec. 10. With respect to obligations for which a pledge has been made under section 9(b) of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

